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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/895,975	06/29/2001	Mark R. Schmitt	AM100341	9267

25291 7590 09/30/2003

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EXAMINER

TRUONG, TAMTHOM NGO

ART UNIT	PAPER NUMBER
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1624

DATE MAILED: 09/30/2003

11

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicant(s)

09/895,975

Applicant(s)

SCHMITT ET AL.

Examiner

Tamthom N. Truong

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-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22, 67, 70 and 73-97 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-22, 67, 70, and 73-97 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-22, 67, 70, and 73-97 (part of each, drawn to the methods of claims 1 and 73 wherein the triazolopyrimidine derivatives have the following substituents:

R¹ is not a ring of 7-, or 8-member, or a spiro ring;

R² is an optionally substituted phenyl group.

classified in classes 514, and 544, various subclasses depending on the substituents.

- II. Claims 1-22, 67, 70, and 73-97 (part of each, drawn to the methods of claims 1 and 73 wherein the triazolopyrimidine derivatives have the following substituents:

R¹ is a ring of 7-, or 8-member;

R² is an optionally substituted phenyl group.

classified in classes 514, and 540, various subclasses depending on the substituents.

- III. Claims 1-22, 67, 70, and 73-97 (part of each, drawn to the methods of claims 1 and 73 wherein the triazolopyrimidine derivatives have the following substituents:

R¹ is a spiro ring;

R² is an optionally substituted phenyl group.

classified in classes 514, and 540, various subclasses depending on the substituents.

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IV. Claims 1-22, 67, 70, and 73-97 (part of each, drawn to the methods of claims 1 and 73 wherein the triazolopyrimidine derivatives have the substituents not listed in the above groups. Further restriction and election will be required if this group is elected.

Inventions groups I through IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different combinations of ring systems for substituents. Although all groups share a common core of triazolopyrimidine, it does not define the invention. Furthermore, said common core is known, and is not applicant's contribution to the art. Besides, a reference for a 102 rejection of one group would not obviate the rejection of another group. Thus, each group is patentably distinct over the other.

A telephone call was made to Mr. Daniel Moran on 9-26-03 to discuss the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the

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application. Any amendment of inventorship must be accompanied by a request under 37 CFR

1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamthom N. Truong whose telephone number is 703-305-4485. The examiner can normally be reached on M-F (7 am -12 pm, and 3 pm - 6 pm) starting from 10-1st -03).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mukund Shah can be reached on 703-308-4716. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4556 for regular communications and 703-308-4556 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.



T. Truong

September 26, 2003



ALAN L. ROTMAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600